

(b) AUTHORIZATION OF APPROPRIATIONS.—Subject to section 2825 of title 10, United States Code, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2008, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of \$50,000,000, as follows:

(1) For military construction projects inside the United States authorized by subsection (a), \$40,000,000.

(2) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$10,000,000.

(c) REPORT REQUIRED BEFORE COMMENCING CERTAIN PROJECTS.—Funds may not be obligated for the projects authorized by this section until 14 days after the date on which the Secretary of Defense submits to the congressional defense committees a report containing a detailed justification for the projects.

**SEC. 2913. LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PURPOSES RELATING TO IRAQ.**

No funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control of the oil resources of Iraq.

**DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 2009**

On Wednesday, September 17, 2008, the Senate passed S. 3004, as amended, as follows:

S. 3004

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Department of Energy National Security Act for Fiscal Year 2009”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.  
Sec. 2. Table of contents.  
Sec. 3. Congressional defense committees.

**DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**

**TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

**Subtitle A—National Security Programs Authorizations**

Sec. 3101. National Nuclear Security Administration.

Sec. 3102. Defense environmental cleanup.

Sec. 3103. Other defense activities.

Sec. 3104. Defense nuclear waste disposal.

**Subtitle B—Program Authorizations, Restrictions, and Limitations**

Sec. 3111. Modification of functions of Administrator for Nuclear Security to include elimination of surplus fissile materials usable for nuclear weapons.

Sec. 3112. Report on compliance with Design Basis Threat issued by the Department of Energy in 2005.

Sec. 3113. Modification of submittal of reports on inadvertent releases of restricted data.

Sec. 3114. Nonproliferation scholarship and fellowship program.

Sec. 3115. Review of and reports on Global Initiatives for Proliferation Prevention program.

**TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

Sec. 3201. Authorization.

**SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**

For purposes of this Act, the term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.

**DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**

**TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

**Subtitle A—National Security Programs Authorizations**

**SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of \$9,641,892,000, to be allocated as follows:

(1) For weapons activities, \$6,610,701,000.  
(2) For defense nuclear nonproliferation activities, including \$538,782,000 for fissile materials disposition, \$1,799,056,000.  
(3) For naval reactors, \$828,054,000.  
(4) For the Office of the Administrator for Nuclear Security, \$404,081,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for the National Nuclear Security Administration as follows:

(1) For readiness in technical base and facilities, the following new plant projects:

Project 09-D-404, Test Capabilities Revitalization Phase 2, Sandia National Laboratory, Albuquerque, New Mexico, \$3,200,000.

Project 08-D-806, Ion Beam Laboratory Project, Sandia National Laboratory, Albuquerque, New Mexico, \$10,014,000.

(2) For naval reactors, the following new plant projects:

Project 09-D-902, Naval Reactors Facility Production Support Complex, Naval Reactors Facility, Idaho Falls, Idaho, \$8,300,000.

Project 09-D-190, Project engineering and design, Knolls Atomic Power Laboratory infrastructure upgrades, Knolls Atomic Power Laboratory, Kesselring Site, Schenectady, New York, \$1,000,000.

**SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for defense environmental cleanup activities in carrying out programs necessary for national security in the amount of \$5,297,256,000.

**SEC. 3103. OTHER DEFENSE ACTIVITIES.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for other defense activities in carrying out programs necessary for national security in the amount of \$826,453,000.

**SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of \$197,371,000.

**Subtitle B—Program Authorizations, Restrictions, and Limitations**

**SEC. 3111. MODIFICATION OF FUNCTIONS OF ADMINISTRATOR FOR NUCLEAR SECURITY TO INCLUDE ELIMINATION OF SURPLUS FISSILE MATERIALS USABLE FOR NUCLEAR WEAPONS.**

Section 3212(b)(1) of the National Nuclear Security Administration Act (50 U.S.C. 2402(b)(1)) is amended—

(1) by redesignating paragraph (18) as paragraph (19); and

(2) by inserting after paragraph (17) the following new paragraph (18):

“(18) Eliminating inventories of surplus fissile materials usable for nuclear weapons.”.

**SEC. 3112. REPORT ON COMPLIANCE WITH DESIGN BASIS THREAT ISSUED BY THE DEPARTMENT OF ENERGY IN 2005.**

(a) IN GENERAL.—Not later than January 2, 2009, the Secretary of Energy shall submit to the congressional defense committees a report setting forth the status of the compliance of Department of Energy sites with the Design Basis Threat issued by the Department in November 2005 (in this section referred to as the “2005 Design Basis Threat”).

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) For each Department of Energy site subject to the 2005 Design Basis Threat, an assessment of whether the site has achieved compliance with the 2005 Design Basis Threat.

(2) For each such site that has not achieved compliance with the 2005 Design Basis Threat—

(A) a description of the reasons for the failure to achieve compliance;

(B) a plan to achieve compliance;

(C) a description of the actions that will be taken to mitigate any security shortfalls until compliance is achieved; and

(D) an estimate of the annual funding requirements to achieve compliance.

(3) A list of such sites with Category I nuclear materials that the Secretary determines will not achieve compliance with the 2005 Design Basis Threat.

(4) For each site identified under paragraph (3), a plan to remove all Category I nuclear materials from such site, including—

(A) a schedule for the removal of such nuclear materials from such site;

(B) a clear description of the actions that will be taken to ensure the security of such nuclear materials; and

(C) an estimate of the annual funding requirements to remove such nuclear materials from such site.

(5) An assessment of the adequacy of the 2005 Design Basis Threat in addressing security threats at Department of Energy sites, and a description of any plans for updating, modifying, or otherwise revising the approach taken by the 2005 Design Basis Threat to establish enhanced security requirements for Department of Energy sites.

**SEC. 3113. MODIFICATION OF SUBMITTAL OF REPORTS ON INADVERTENT RELEASES OF RESTRICTED DATA.**

(a) IN GENERAL.—Section 4522 of the Atomic Energy Defense Act (50 U.S.C. 2672) is amended—

(1) in subsection (e), by striking “on a periodic basis” and inserting “in each even-numbered year”; and

(2) in subsection (f), by striking paragraph (2) and inserting the following new paragraph (2):

“(2) The Secretary of Energy shall, in each even-numbered year beginning in 2010, submit to the committees and Assistant to the President specified in subsection (d) a report identifying any inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 12958 discovered

in the two-year period preceding the submittal of the report.”.

(b) **TECHNICAL CORRECTION.**—Subsection (e) of such section, as amended by subsection (a)(1) of this section, is further amended by striking “subsection (b)(4)” and inserting “subsection (b)(5)”.

**SEC. 3114. NONPROLIFERATION SCHOLARSHIP AND FELLOWSHIP PROGRAM.**

(a) **ESTABLISHMENT.**—The Administrator for Nuclear Security shall carry out a program to provide scholarships and fellowships for the purpose of enabling individuals to qualify for employment in the nonproliferation programs of the Department of Energy.

(b) **ELIGIBLE INDIVIDUALS.**—An individual shall be eligible for a scholarship or fellowship under the program established under this section if the individual—

(1) is a citizen or national of the United States or an alien lawfully admitted to the United States for permanent residence;

(2) has been accepted for enrollment or is currently enrolled as a full-time student at an institution of higher education (as defined in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a));

(3) is pursuing a program of education that leads to an appropriate higher education degree in a qualifying field of study, as determined by the Administrator;

(4) enters into an agreement described in subsection (c); and

(5) meets such other requirements as the Administrator prescribes.

(c) **AGREEMENT.**—An individual seeking a scholarship or fellowship under the program established under this section shall enter into an agreement, in writing, with the Administrator that includes the following:

(1) The agreement of the Administrator to provide such individual with a scholarship or fellowship in the form of educational assistance for a specified number of school years (not to exceed five school years) during which such individual is pursuing a program of education in a qualifying field of study, which educational assistance may include payment of tuition, fees, books, laboratory expenses, and a stipend.

(2) The agreement of such individual—

(A) to accept such educational assistance;

(B) to maintain enrollment and attendance in a program of education described in subsection (b)(2) until such individual completes such program;

(C) while enrolled in such program, to maintain satisfactory academic progress in such program, as determined by the institution of higher education in which such individual is enrolled; and

(D) after completion of such program, to serve as a full-time employee in a nonproliferation position in the Department of Energy or at a laboratory of the Department for a period of not less than 12 months for each school year or part of a school year for which such individual receives a scholarship or fellowship under the program established under this section.

(3) The agreement of such individual with respect to the repayment requirements specified in subsection (d).

(d) **REPAYMENT.**—

(1) **IN GENERAL.**—An individual receiving a scholarship or fellowship under the program established under this section shall agree to pay to the United States the total amount of educational assistance provided to such individual under such program, plus interest at the rate prescribed by paragraph (4), if such individual—

(A) does not complete the program of education agreed to pursuant to subsection (c)(2)(B);

(B) completes such program of education but declines to serve in a position in the Department of Energy or at a laboratory of the

Department as agreed to pursuant to subsection (c)(2)(D); or

(C) is voluntarily separated from service or involuntarily separated for cause from the Department of Energy or a laboratory of the Department before the end of the period for which such individual agreed to continue in the service of the Department pursuant to subsection (c)(2)(D).

(2) **FAILURE TO REPAY.**—If an individual who received a scholarship or fellowship under the program established under this section is required to repay, pursuant to an agreement under paragraph (1), the total amount of educational assistance provided to such individual under such program, plus interest at the rate prescribed by paragraph (4), and fails repay such amount, a sum equal to such amount (plus such interest) is recoverable by the United States Government from such individual or the estate of such individual by—

(A) in the case of an individual who is an employee of the United States Government, setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; or

(B) such other method as is provided by law for the recovery of amounts owed to the Government.

(3) **WAIVER OF REPAYMENT.**—The Administrator may waive, in whole or in part, repayment by an individual under this subsection if the Administrator determines that seeking recovery under paragraph (2) would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) **RATE OF INTEREST.**—For purposes of repayment under this subsection, the total amount of educational assistance provided to an individual under the program established under this section shall bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

(e) **PREFERENCE FOR COOPERATIVE EDUCATION STUDENTS.**—In evaluating individuals for the award of a scholarship or fellowship under the program established under this section, the Administrator may give a preference to an individual who is enrolled in, or accepted for enrollment in, an institution of higher education that has a cooperative education program with the Department of Energy.

(f) **COORDINATION OF BENEFITS.**—A scholarship or fellowship awarded under the program established under this section shall be taken into account in determining the eligibility of an individual receiving such scholarship or fellowship for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(g) **REPORT TO CONGRESS.**—Not later than January 1, 2010, the Administrator shall submit to the congressional defense committees a report on the activities carried out under the program established under this section, including any recommendations for future activities under such program.

(h) **FUNDING.**—Of the amounts authorized to be appropriated by section 3101(a)(2) for defense nuclear nonproliferation activities, \$3,000,000 shall be available to carry out the program established under this section.

**SEC. 3115. REVIEW OF AND REPORTS ON GLOBAL INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.**

(a) **REVIEW OF PROGRAM.**—

(1) **IN GENERAL.**—The Administrator for Nuclear Security shall conduct a review of the Global Initiatives for Proliferation Prevention program.

(2) **REPORT REQUIRED.**—Not later than February 1, 2009, the Administrator shall submit

to the congressional defense committees a report setting forth the results of the review required under paragraph (1). The report shall include the following:

(A) A description of the goals of the Global Initiatives for Proliferation Prevention program and the criteria for partnership projects under the program.

(B) Recommendations regarding the following:

(i) Whether to continue or bring to a close each of the partnership projects under the program in existence on the date of the enactment of this Act, and, if any such project is recommended to be continued, a description of how that project will meet the criteria under subparagraph (A).

(ii) Whether to enter into new partnership projects under the program with Russia or other countries of the former Soviet Union.

(iii) Whether to enter into new partnership projects under the program in countries other than countries of the former Soviet Union.

(C) A plan for completing partnership projects under the program with the countries of the former Soviet Union by 2012.

(b) **REPORT ON FUNDING FOR PROJECTS UNDER PROGRAM.**—

(1) **IN GENERAL.**—The Administrator shall submit to the congressional defense committees a report on—

(A) the purposes for which amounts made available for the Global Initiatives for Proliferation Prevention program for fiscal year 2009 will be obligated or expended; and

(B) the amount to be obligated or expended for each partnership project under the program in fiscal year 2009.

(2) **LIMITATION ON FUNDING BEFORE SUBMITTAL OF REPORT.**—None of the amounts authorized to be appropriated for fiscal year 2009 by section 3101(a)(2) for defense nuclear nonproliferation activities and available for the Global Initiatives for Proliferation Prevention program may be obligated or expended until the date that is 30 days after the date on which the Administrator submits to the congressional defense committees the report required under paragraph (1).

(c) **LIMITATION ON FUNDING FOR GLOBAL NUCLEAR ENERGY PARTNERSHIP.**—None of the amounts authorized to be appropriated for fiscal year 2009 by section 3101(a)(2) for defense nuclear nonproliferation activities and available for the Global Initiatives for Proliferation Prevention program may be used for projects related to energy security that could promote the Global Nuclear Energy Partnership.

**TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

**SEC. 3201. AUTHORIZATION.**

There are authorized to be appropriated for fiscal year 2009, \$28,968,574 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

**UNANIMOUS CONSENT-AGREEMENT—S. RES. 601, S. RES. 623, S. RES. 650, AND S. RES. 667**

Mr. CASEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged and the Senate now proceed, en bloc, to the consideration of the following resolutions: S. Res. 601, National Save for Retirement Week; S. Res. 623, Anniversary of the Lander Trail; S. Res. 650, National Good Neighbor Day; S. Res. 667, Prostate Cancer Awareness Week.

There being no objection, the Senate proceeded to consider the resolutions, en bloc.